

# MAINE STATE LEGISLATURE

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L.D. 2006

(Filing No. H-1032)

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
108TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1935, L.D. 2006, Bill,  
"AN ACT to Clarify Certain Definitions under the Subdivision  
Law and to Set Out the Intent of the Legislature in Enacting  
that Law."

Amend the Bill in section 1 by striking out all of the  
last 2 underlined sentences and inserting in their place  
the following:

'The sale or other conveyance of lots in a cemetery shall  
not be governed by the provisions of this section.'

Further amend the Bill by striking out all of section  
2 and inserting in its place the following:

'Sec. 2. 30 MRSA §4956, sub-§1-A is enacted to read:

1-A. Land use development. In addition to the  
foregoing, the municipal reviewing authority may review according  
to subsections 2 and 3 all recreational, residential, commercial  
and industrial development, including, but not limited to,  
apartments, condominiums, mobile home parks, nursing and  
boarding homes, hospitals, hotels, motels, stores, shopping  
centers and facilities, service facilities, factories and  
recreation facilities.

Sec. 3. 30 MRSA §4956, sub-§2, ~~¶A, B and C,~~ as repealed  
replaced by PL 1973, c. 465, §1, are amended to read:

A. All requests for subdivision or land use development

approval shall be reviewed by the municipal planning board, agency or office, or if none, by the municipal officers, hereinafter called the municipal reviewing authority.

B. The municipal reviewing authority may, after a public hearing, adopt additional reasonable regulations governing subdivisions or land use development which shall control until amended, repealed or replaced by regulations adopted by the municipal legislative body. The municipal reviewing authority shall give at least 7 days' notice of such hearing.

C. On all matters concerning subdivision or land use development review, the municipal reviewing authority shall maintain a permanent record of all its meetings, proceedings and correspondence.

Sec. 4. 30 MRSA §4956, sub-§2, <sup>last sentence,</sup> ~~¶C-1,~~ as enacted by PL 1975, c. 468, §2, is amended to read:

After the municipal reviewing authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision or land use development.

Sec. 5. 30 MRSA §4956, sub-§2, ~~¶D,~~ <sup>←</sup> as repealed and replaced by PL 1973, c. 465, §1, is amended to read:

In the event that the municipal reviewing authority determines to hold a public hearing on an application for subdivision and land use development approval, it shall hold such hearing within 30 days of receipt by it of a completed application, and shall cause notice of the date, time and place of such hearing to be given to the person making the application

and to be published in a newspaper of general circulation in the municipality in which the subdivision and land use development is proposed to be located, at least 2 times, the date of the first publication to be at least 7 days prior to the hearing.

Sec. 6. 30 MRSA §4956, sub-§2, last ¶, as repealed and replaced by PL 1973, c. 465, §1, is amended to read: The municipal reviewing authority shall, within 30 days of a public hearing or within 60 days of receiving a completed application, if no hearing is held, or within such other time limit as may be otherwise mutually agreed to, issue an order denying or granting approval of the proposed subdivision or land use development or granting approval upon such terms and conditions as it may deem advisable to satisfy the criteria listed in subsection 3 and to satisfy any other regulations adopted by the reviewing authority, and to protect and preserve the public's health, safety and general welfare. In all instances, the burden of proof shall be upon the persons proposing the subdivisions or land use development. In issuing its decision, the reviewing authority shall make findings of fact establishing that the proposed subdivision or land use development does or does not meet the foregoing criteria.

Sec. 7. 30 MRSA §4956, sub-§3, first ¶, as repealed and replaced by PL 1971, c. 454, is amended to read: When promulgating any subdivision or land use development or land use development regulations and when reviewing any subdivision/for approval, the planning board, agency or office, or the municipal

officers, shall consider the following criteria and before granting approval shall determine that the proposed subdivision or land use development:

Sec. 8. 30 MRSA §4956, sub-§3, ¶¶B and K, as repealed and replaced by PL 1971, c. 454, are amended to read:

B. Has sufficient water available for the reasonably foreseeable needs of the subdivision and land use development;

K. The subdivider land use developer has adequate financial and technical capacity to meet the above stated standards.

Sec. 9. 30 MRSA §4956, last ¶, first sentence, as repealed and replaced by PL 1977, c. 564, §118-E, is amended to read:

Any person, firm, corporation or other legal entity who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land in a subdivision or land use development, as described in subsection 1-A, which has not been approved as required by this section shall be punished by a fine of not more than \$1,000 for each such occurrence.

Sec. 10. 30 MRSA §4956, sub-§6 is enacted to read:

6. Intent. It is the intent of this section to provide municipalities with procedures and guidelines for review of land use activities and development, in order to protect

the health, safety and welfare of the citizens of the municipality and persons acquiring an interest in land. Nothing in this section shall be interpreted to deny to municipalities, pursuant to their home rule powers, the power to regulate more restrictively by ordinance the review of subdivisions or the use of land, < - - - - - > municipalities may not define more restrictively the definition of the word subdivision as provided in subsection 1.'

Statement of Fact

This amendment adds a new subsection and amends other applicable subsections of Title 30, section 4956, to provide for municipal review of land development in addition to the review of subdivisions. It makes explicit the legislative expression of home rule powers as they relate to this section of municipal law. It includes a statement of intent.

Reported by the Committee on Natural Resources.

Reproduced and distributed under the direction of the Clerk of the House.  
2/14/78

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